

*M. Whitsett*

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A  
Government  
of Laws  
—Not Men

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*An Address*

*By*

ASA V. CALL

*President*

*California State Chamber of Commerce  
Agriculture and Industry*

Before the Annual Breakfast of the  
Sacramento Host Committee honoring  
the Directors of the California  
State Agricultural Society and the  
Directors of the California State  
Chamber of Commerce.



SACRAMENTO, CALIFORNIA

September 7, 1946

*Mr. Pollock, Governor Warren, Honored Guests,  
Gentlemen:*

May I express to you, Mr. Pollock, and to the Host Committee, our sincere appreciation for this very happy occasion. We of the State Chamber of Commerce look upon it as one of the highlights of the year.

Yesterday, two years ago, at breakfast time,  
we were fighting a foreign foe . . . far away  
from home.

Then, as now, we were guests of the Sacramento Host Committee, and participated in a most significant breakfast. We were at war with formidable foes. The struggle was bitter, and the mobilized resources of the Nation in men and materials were hard pressed to feed the jaws of war. Many of our sons and daughters were paying the supreme sacrifice, and a large portion of our productive capacity was pouring our wealth into the roaring inferno. Those were troubled days and our whole thought was to defeat totalitarianism in the world and to return to peacetime living with our families and friends.

Today, at breakfast time, with the foreign foe  
beaten, we are being attacked by his philosophy . . . here at home!

Yet, as we meet today, more than a year after V-J Day, there is little real peace in the world, and the virus of authoritarianism is healthier and of more epidemic proportions than before. In place of the new dawn of freedom that peace should have brought, we witness a planetary wildfire of political compulsion, arbitrary control and planning which everywhere tramples freedom and dissipates the productive resources that survived war's destruction. Here in our own country we are wit-



nessing the tragic paradox of having forced the surrender of some of the world's dictators while at the same time having surrendered bit by bit to their philosophy. Having conquered the enemy from without, we, in turn, are being conquered from within.

**Government dominance challenges true American liberals to banish this usurper and reënthrone the concept of freedom that has guided us to greatness.**

Since the early 1930's, the world has again been swept with the age-old, periodically recurrent, and invariably disproved theory that somehow omnipotent government is the solution to man's problems. Long before Pearl Harbor, we in America were being caught up by the tide and drawn ever closer to the same doctrine of government dominance rampant in Germany and Japan, and propounded by Russia today. As the pendulum has swung toward state planning and government control it has been unpopular, even in America, to stand in the way. Yet, I sincerely believe that the voices now crying against surrender will be revealed as the true liberals once the hysterical belief in the efficacy of more and more government is unmasked, and America turns to embrace again the concept of the freedom upon which it has built its greatness.

**Our founding fathers, believing in government by law, not men, wrote their belief into our Constitution as our safe defense against old-world tyrannies.**

Life has been rich here, and America has grown strong under a philosophy of government by *law* and not by *men*. Our founding fathers, and the statesmen who followed, established it that way because they had learned from bitter experience

that only by living *under* law can we live *above* the tyranny of man. The evils of governmental dominance, in its various forms, were well known long before the current crop of dictators. Thus it was that the molders of our government, deliberately and dispassionately, set out to define and confine the sphere of government by law. This law, above men, was a written constitution, and an unwritten tradition of the dignity of men and the freedom of the individual.

Our government was founded upon a belief that no state can lay claim to supremacy on the grounds of divine right, or on the grounds that in some mystic fashion the government in itself is a paramount entity far above the citizens paying obeisance to it. On the contrary, it was believed that the citizen is the real authority, and that the government was intended as a device by which the citizen could pool his efforts toward a common purpose. The citizen was to run the government—not the government the citizen.

Our Constitution defined the powers of government, and provided checks and balances to prevent government dominion over citizens at any time.

With remarkable vision the constitution was written to guarantee the perpetuation of this concept. The powers of government were defined. The citizen was specifically reserved certain rights, and he specifically retained all others not expressly delegated to the government. Certain powers and duties were reserved to the states, and others, national in scope, were assigned to the Federal Government. To further guard against the centralization of governmental authority, the wise system of checks and balances was instituted through which the Congress, the Executive and the Judicial



branches of government were to watch each other. This we know as a government of *law*, in that the basic law of the land is intended for all time to prevent dominance of citizens by passing governments and by the whims of man.

Some Americans don't recognize government by men. They see only the pleasant new mask it wears, and would maintain the very thing our forefathers died to put down forever.

But what has been happening to this basic law of the land—this law that assigns government its proper sphere—this law that carried us magnificently through 150 years? We have become infected with the old-world germ of “government-itus.” We have strayed farther and farther from our original premise and have taken to our bosom and popularized the belief that more government is the cure for our problems. This is done, often quite sincerely, through catch words of social improvement and in the name of progress. Yet governmental dominance is not new; it is old. Each step toward more government control is a backward step toward the very thing our forefathers fought to escape—a step toward the system cherished by every dictator.

Government services change with changing times. But when government moves in on the sacred rights of individual freedom, our birth-right is in jeopardy.

No sensible person can deny that the services government performs change with changing conditions. The danger to our democratic liberties lies not necessarily in the *number* of things government must do, but in the type of things it does. The rights of individual liberty and freedom are as valid today as in 1776. It is when government begins to move into spheres which jeopardize these

rights that we find ourselves departing from our heritage of a government by law, and going backward.

With each national crisis Washington has asked for and received in the nature of a loan, the surrender of some of our independence, but with the crisis passed, Washington has not returned the loan to its rightful owners.

With each emergency, or presumed emergency, Washington has become more possessive. In each crisis more of our independence has been surrendered, not to be returned with the passing of the events which led to the surrender. Each time the government has grown larger. Since the capital was first moved to Washington, the Federal civil personnel has multiplied approximately eight hundred times as fast as our population.

Today, the government does much more than provide the services and perform the duties which were outlined for it, and which are its natural function. Today, it regulates every phase of life. It steps into the lives of individuals, into the operation of business, into labor's organization, into finance and agriculture.

Although the war is over, the Federal Government jealously maintains wartime controls, and we are in the toils of a bureaucratic octopus that reaches into every phase of our lives.

Hostilities have ceased, and still the Federal Government today exercises wartime controls over business in the United States. The administration still sets prices and has the authority to ration goods, to allocate supplies and to seize raw materials and food. Manufacturers can still be told what to make and how much. Industry can still be seized by government. Credit is still regulated. The government still restricts and regulates exports. The government pays subsidies to increase



the farmer's product, but still reserves the privilege of telling him to plow it under. Wherever one turns, he may see the maelstrom of regulations, not alone on business, but on labor and on the personal lives of our citizens. A gigantic bureaucracy has grown up—the child of the often disproved notion that more government and more regulation solves basic problems. The only thing that compares to the size of this bureaucracy is the size of the national debt.

Don't be beguiled by the mask of benevolence, or the deceptive draperies of security, into bartering away your liberty. Trade liberty for imagined security, and you lose both . . . a fact traced by the finger of history.

Many of the government extensions have taken place in the name of benevolence. Benevolence for whom? Benefits to capital at the expense of labor, or benefits to labor at the expense of capital? Benefits to majorities at the expense of minorities, or benefits to minorities at the expense of majorities? This is just the trouble whenever an oligarchy attempts to regulate the complexities of modern life. Instead of creating unity it creates distinctions, and sets one against the other. Is it done in the name of security? One of the tragic errors of man is his proclivity for trading liberty for security. As we proceed to do so here, should we not remember the lessons of history? There is, gentlemen, no instance in history, from Athens to Berlin, where a free people have traded liberty for supposed security without having in time lost both.

Not only the amount of government control, but the method, both strike at our liberties. One breach in our liberties has been effected by present-day concentration of power in the executive branch of government.

Our system, whereby the people and their activities are protected against arbitrary government authority by *law*, is being perverted not alone by the *extent* of government control into new fields, but also by the *method*. Our three-branch system of checks and balances, while sometimes slower than the pronouncements of authoritarianism, was nonetheless essential to the long-range preservation of the American concept of democracy. One great departure from the system is the present-day concentration of power in the executive branch. Congress has fallen into the practice of assigning broad, new authority to the administration. The executive branch also, under one guise or another, has taken additional powers unto itself. This has led to the wide use of arbitrary discretion on the part of administrative boards, commissions and officers. Administrators determine policy rather than execute it. They have autocratic control over vast areas of American life and business. Frequently there is no appeal from their decisions. This practice, together with outright participation in business, not only injures and weakens American enterprise, steps closer to state socialism, substitutes dictation for freedom, but creates a governmental colossus of confusion and waste.

Another blow to American liberty has been the emasculation of the United States Supreme Court, and its reduction to rubber stamp status.

Another departure is evident in the altered position of the Supreme Court. Instead of being the equal partner that was intended, it has surrendered to the philosophy of the executive branch of government. Today the United States Supreme Court too frequently is but a rubber stamp for whatever economic, social or political laws Congress passes.



Where once it stood as a bulwark of the basic law of the land, now it seems to have fallen victim to the worldwide, currently popular philosophy of state socialism.

What hurts American business hurts every American, because every American has a stake in American business, even government employees whose wages are paid out of taxes gleaned from American business.

Now, I recognize that the businessman who speaks out against the growing sphere of government—against the abandonment of our original spirit of law rather than man—is accused in some quarters of purely selfish motives. True it is that increasing regulation hurts the businessman—therefore, he doesn't like it. But this is the crux of the matter—it also hurts everyone else. This is true because, first, this socialized spirit of regulation is not confined to the businessman but is extended to include labor, agriculture and every phase of life, and second, when business is hurt everyone suffers. When shall we awake to the fact that everyone in America owes his living and well being to American business? The notion that a business is but the personal playground of the man who happens to manage it is utter nonsense. Business employs everyone in America, except for public servants, and its taxes pay the salaries of these. The time has come to stop apologizing for business, and that awful institution of capitalism. Every person in the Nation has a stake in private business. Private enterprise *is* America. Anyone who prefers to live under a Russian type of fear and tyranny is welcome to it. All I ask is that he stand up and be counted, and stop acting as though he could emasculate American free enterprise and at the same time avoid the grinding servitude of

state socialism. If moving toward this sort of thing, so often historically discredited, is progress—then I am reactionary. But if moving toward the greater freedom for which man has eternally struggled is progress—then I am a progressive.

**Eight important roadsigns of progress:**

I believe the following steps are some of the guideposts of progress:

1. The lifting of wartime controls from the lives of our people.
2. The demobilization of the Federal Bureaucracy.
3. Balancing of the National Budget.
4. Achievement of all-out production in order to curb the menace of inflation.
5. Maintenance of peace and harmony in industrial relations between management and labor, by recognizing they are a team, both seeking a common goal.
6. Revitalization of the American spirit of self-reliance, ambition, thrift and industry.
7. The ceasing of government's actually engaging in business.
8. Restoration of the concept of government as the servant rather than the master of the people.

A new type of American evangelist is needed, who recognizes the senility of totalitarianism despite any recent face-lifting, and who is devoted to the preservation of institutions we love. We need this in order to return to a government by law, not men.

The spirit of individualism still lives in America, but we need more than that. If those who hope for an all-powerful, communistic type of government are evangelists, then we must be evangelists



too. We need a willingness to give of our time and our substance to help preserve the institutions we love. We cannot be content with name-calling and negative action, but must work with equal fervor and devotion to that exhibited by those who seek to have America fall into line with the worldwide trend to old-fashioned totalitarianism.

Let us, then, resolve to resist the trend toward super governments. Let us, by our devotion to the American concept of democracy and by the vigor with which we defend it, kindle a spark of hope in the hearts of men throughout the world. Let us by our example prove that democracy can work—that it *does* work—and that life is full and rich under the American system. Let us lead the world and ourselves toward a better day by standing out, as we once did, as a citadel of government by *law* rather than *men*.

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